

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MONTAGE MORTGAGE, LLC,

Plaintiff,

V.

**PACIFIC UNION FINANCIAL, LLC,
JOHN PERRY, VALERIE COLEMAN,
CAITLIN V. COOKE, EDUARDO
CREQUE, JESSICA M. FURR (KEEN),
KATHY KELLER, FOUAD NAGHMI,
TAMMY NEAL, CHARLES F. PEER,
MICHAELENE WHYTE, and MELISSA
WILLOBY,**

Defendants.

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NO. _____

PACIFIC UNION FINANCIAL, LLC'S NOTICE OF REMOVAL

Defendant Pacific Union Financial, LLC (“Pacific Union”) hereby files this Notice of Removal, removing the case styled *Montage Mortgage, LLC v. Pacific Union Financial, LLC, John Perry, Valerie Coleman, Caitlin V. Cooke, Eduardo Creque, Jessica M. Furr (Keen), Kathy Keller, Fouad Naghmi, Tammy Neal, Charles F. Peer, Michaelene Whyte, and Melissa Willoby*, Case No. DC-016-03036, from the 298th Judicial District Court, Dallas County, Texas, to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. The grounds for removal are as follows:

I. PROCEDURAL HISTORY

1. On March 14, 2016 Montage Mortgage, LLC (“Plaintiff”) filed its Original Petition in Texas state court against Pacific Union, Micah Laverne Greene, and John Perry, multiple Texas state law claims and causes of action including: breach of contract, misappropriation of confidential information and trade secrets, tortious interference with prospective business relations, intentional

interference with contractual relations, and conspiracy. Plaintiff's Original Petition did not implicate claims or defenses arising out of federal law, and did not seek relief under any federal law.

2. On September 12, 2016 Plaintiff filed its First Amended Petition in state court adding new state law causes of action including: tortious interference of contractual relations, breach of fiduciary duty, and aiding and abetting. Plaintiff's First Amended Petition did not purport to seek relief under any federal law.

3. On September 29, 2017 Plaintiff filed its Second Amended Petition in Texas state court. The Second Amended Petition also sought to join 10 additional, individual defendants: Valerie Coleman, Caitlin V. Cooke, Eduardo Creque, Jessica M. Furr (Keen), Kathy Keller, Fouad Naghmi, Tammy Neal, Charles F. Peer, Michaelene Whyte, and Melissa Willoby. The Second Amended Petition also asserts, for the first time, causes of action arising out of federal law, including: the federal Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§ 1961, *et seq.* ("RICO"), the federal Defend Trade Secrets Act ("DTSA"), 19 U.S.C. §§ 1836, *et seq.*, and the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030.

4. On September 29, 2017, Pacific Union was served with Plaintiff's Second Amended Petition. This removal is timely filed within 30 days of receipt of Plaintiff's Second Amended Petition. 28 U.S.C. § 1446(b). True and correct copies of all pleadings filed in state court are attached hereto.

II. FEDERAL QUESTION JURISDICTION

Pacific Union removes this case on the basis of federal question jurisdiction. 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."). Plaintiff now alleges claims arising under federal law, including, specifically the DTSA, RICO, and CFAA. This action has therefore become removable. *See Wheeler v. Kidder Peabody & Co., Inc.*, 1993 WL 455869, at *2 n.2, 8 F.3d 21 (5th Cir.

Oct. 26, 1993) (recognizing that federal district court had jurisdiction under § 1331 based on asserted RICO claim, and supplemental jurisdiction over related state claims).

Pursuant to 28 U.S.C. § 1367(a), the Court has supplemental jurisdiction over all of Plaintiff's state law causes of action arising under Texas and Virginia law because the other claims are so related to the claims in this action within Court's original jurisdiction that they form part of the same case or controversy.

III. PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURES

Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the state action is pending.

Pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants who have been served have consented to the removal of the action.

Pacific Union will promptly give adverse parties written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Pacific Union will also promptly file a copy of this Notice of Removal with the clerk of the 298th Judicial District Court, Dallas County, Texas, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

True and correct copies of all process, pleadings, and the orders served upon Defendant in the state court action are being filed with this notice as required by 28 U.S.C. § 1446(a) and are attached hereto.

WHEREFORE, Pacific Union removes the case styled *Montage Mortgage, LLC v. Pacific Union Financial, LLC, John Perry, Valerie Coleman, Caitlin V. Cooke, Eduardo Creque, Jessica M. Furr (Keen), Kathy Keller, Fouad Naghmi, Tammy Neal, Charles F. Peer, Michaelene Whyte, and Melissa Willoby*, Case No. DC-016-03036 from the 298th Judicial District Court, Dallas County, Texas, on this 27th day of October, 2017.

Dated: October 27, 2017

Respectfully submitted,

/s/ Jason R. Elliott

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been served upon all counsel of record via U.S. Mail and email, on this 27th Day of October 2017, as follows:

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